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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,284

06/16/2005

Harald Jakob

7601/84332

2629

66991

7590

03/12/2009

LAW OFFICE OF MICHAEL A. SANZO, LLC
15400 CALHOUN DR.
SUITE 125
ROCKVILLE, MD 20855

EXAMINER

DELCOTTO, GREGORY R

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

03/12/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/539,284</p>	<p>Applicant(s) JAKOB ET AL.</p>	
	<p>Examiner Gregory R. Del Cotto</p>	<p>Art Unit 1796</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Gregory R. Del Cotto/
Primary Examiner, Art Unit 1796

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not sufficient to overcome the rejection(s) as set forth in the Office action mailed 12/3/08 which have been maintained for the reasons of record. Additionally, Applicant states that although Bertsch-Frank et al indicates that sodium silicate in the outer layer of the coated percarbonate comprises 2wt% of the composition relative to the sodium percarbonate present, this does not, in itself, provide information concerning the concentration of sodium silicate in the solution that was used to make the outer coating. Further, Applicant states that the most relevant information in this regard appears to be in column 8 of the reference, lines 22-23 and 46-52 which indicate that the sodium silicate solutions used to make the particles described in comparative examples or inventive examples are 37 degrees Be, which would appear to be associated with a silicon dioxide concentration greater than 20%. In response, note that, as pointed out in the Office action mailed 12/3/08, Bertsch-Frank et al teach the use of an aqueous solution containing 8% by weight of sodium silicate as a coating agent, which would fall within the scope of the instant claims, wherein the use of this solution results in sodium percarbonate particles containing, for example, a total of 2% by weight of sodium silicate which also falls within the scope of the instant claims. Further, while Bertsch-Frank et al teach that the 8% by weight sodium silicate aqueous solution used as a coating agent is prepared from a sodium waterglass solution with ca 37 degrees Be, clearly, the 8% by weight sodium silicate aqueous solution is the resultant coating agent and does not have the same amount of sodium silicate as the parent ca 37 degree Be solution. Additionally, while Applicant acknowledges in footnote 1 that Bertsch-Frank et al discloses compositions (coating agents) containing 8% by weight of sodium silicate, Applicant states that these do not appear to have been used in making the particles described in column 10 cited in the previous Office action. In response, note that, the Examiner maintains that Bertsch-Frank et al teaches in column 10, lines 45-69 that coatings are applied to percarbonate particles, wherein one of such coatings may be sodium silicate, and that one of ordinary skill in the art would immediately envisage and readily ascertain that this sodium silicate coating may be obtained using an 8% by weight sodium silicate aqueous solution as disclosed in column 8, lines 45-60 of Bertsch-Frank et al. Thus, the Examiner maintains that Bertsch-Frank et al discloses the claimed invention with sufficient specificity to constitute anticipation under 35 USC 102.